

Application No.: 09/856,294**Docket No.: 4560-001****REMARKS**

The Examiner's indication of allowable subject matter of claims 2 and 4 is noted with appreciation.

Claims 2 and 4 are pending in the application. Non-elected claims 1 and 3 have been cancelled without prejudice or disclaimer. Claim 2 has been amended to overcome the 35 U.S.C. 112, *second paragraph* rejection manifested in paragraph 3 of the Office Action. In particular, claim 2 has been amended to remove all indefiniteness issues mentioned in paragraph 4 of the Office Action, except "two high pressure tanks" because this limitation does not appear to lack antecedent basis (the rejection would have been appropriate had original claim 2 recited said/the high pressure tanks). The title and claims 2 and 4 have also been amended to correct certain apparent typographical and/or grammatical errors. No new matter has been introduced through the foregoing amendments.

Claims 2 and 4 are now believed in condition suitable for allowance, and early indication of same is courteously solicited.

It should be noted that the Examiner's decision to close prosecution on the merits (paragraph 7 of the Office Action) is premature, because the practice under *Ex parte Quayle* is applicable only to correct formal matters in an application which is otherwise in condition for allowance. The indefiniteness issues raised in the Examiner's 35 U.S.C. 112, *second paragraph* rejection are not formal matters, and original claims 2 and 4, according to the Examiner, are not deemed in condition suitable for allowance prior to this Amendment paper. Thus, the prosecution on the merits should not have been closed by the Office Action, and hence, this Amendment paper and the claim amendments made herein should be entered and considered as a matter of right.


The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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